IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 17185 of 2007(U)

PETITIONER:

PRASANNA BABU,
PROPRIETOR, ARUN SAW MILLS,
AVANAVANCHERY, ATTINGAL, THIRUVANANTHAPURAM-
695 103.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

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1. THE SALES TAX OFFICER,
COMMERCIAL TAX OFFICER, ATTINGAL,
THIRUVANANTHAPURAM.

2. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, THIRUVANANTHAPURAM.

3. THE COMMISSIONER,
COMMERCIAL TAXES, THIRUVANANTHAPURAM.

4. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
CHIRAYINKEEZHU TALUK, THIRUVANANTHAPURAM.

5. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. C.K. GOVINDAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 17185 of 2007

Dated, this the 2nd day of July, 2007

J U D G M E N T

Petitioner is challenging recovery proceedings issued during pendency of revision petition filed against penalty levied under Sec. 17 (5A) of the KGST Act. This Court has held that no revision petition is maintainable against penalty levied under Sec. 17 (5A) of the KGST Act because penalty is mandatory and is based on tax demand. However if demand of tax is reduced in appeal, petitioner will get proportionate reduction in penalty is the finding of this Court. This WP(C) is therefore dismissed with the above observation.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg